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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,346	01/15/2002	Jun Gao	10012641-1	5995

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EXAMINER

GUADALUPE, YARITZA

ART UNIT PAPER NUMBER

2859

DATE MAILED: 09/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/050,346

Applicant(s)

GAO ET AL.

Examiner

Yaritza Guadalupe

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

In response to Amendment filed July 9, 2003

### ***Election/Restrictions***

1. Applicant's election with traverse of the invention of Group I, claims 1 – 9, in Paper No. 3 is acknowledged. The traversal is on the ground(s) that 1) no serious burden has been established; and 2) that the claims 1 – 9 and 10 – 14 have the same classification. This is not found persuasive because even when part of the field of search for inventions of claims 1 – 9 and 10 – 14 is the same, the inventions are distinct and the conditions required by MPEP § 806.05 (e) have been presented. In the case of claims 1 – 9 and 15 – 20, the inventions are distinct and unrelated because the field of search for each invention is different. Thus the serious burden on the examiner of having to search different classes and to search all features or limitations directed to the different inventions is eliminated by the proper restriction requirement. The conditions required by MPEP § 806.04 have been presented. Also, the claims cannot be considered as merely varying in the scope of their definition since each Group is clearly directed to a different invention requiring different features or limitations as stated in paragraphs 2 – 4 of the prior Office Action ( Paper No. 3 )

The requirement is still deemed proper and is therefore made FINAL.

2. Accordingly, claims 10 - 20 are withdrawn from further consideration by the examiner, 37 CFR 1.142 (b), as being drawn to a non-elected invention, the requirement having been traversed in Paper No. 3.

3. This application contains claims 10 - 20 drawn to an invention nonelected with traverse in Paper No. 3. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1 – 9 and 21 - 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Tullis et al. ( US 6,517,180 ).

The applied reference has a common assignee and at least one common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Tullis et al. discloses an apparatus for media sensing comprising a sensing array ( 32 ) producing an output signal which will be algorithmically processed to discriminate and classify media by having at least two input parameters, i.e., dot position in an x ,y coordinate system and reflectivities of the possible media, and having an output which has a joint dependency on said input parameter, i.e., determined the type or class of media, said input parameters being associated with image – related measurements acquired from imaging textural features which are characteristics of different classes of media said output being an identification of a media class.

Tullis et al. further discloses imaging a medium of interest ( See Columns 6 and 9, lines 51 – 67 and 14 – 26 respectively ) to acquire image information regarding textural features of said medium of interest, said textural features being related to structure of said medium of interest. Tullis et al. discloses determining said image – related measurements from said image information ( See Column 10, lines 14 – 19 ).

Tullis et al. also discloses employing said probabilistic input – output system to associate said medium of interest with a selected media class, including using said image – related measurements determined from said image information as said input parameters ( See Columns 11 and 12, lines 62 – 67 and 1 – 13 respectively ).

The method steps as stated in claims 2 – 9 can be met by the regular operation of the apparatus disclosed by Tullis et al. since it is clearly stated that one skilled in the art of algorithms for calculating measurements from sensor data will readily appreciate that a variety of computational methods that are already available ( See Column 10, lines 1 – 7 ), i.e., cluster weighted modeling, so as to ultimately classify said media of interest into classes or type.

### ***Response to Arguments***

6. Applicant's arguments filed July 7, 2003 have been fully considered but they are not persuasive.

Applicant arguments regarding Tullis et al. not disclosing the use of image-related measurements and the cluster-weighted measurements are not persuasive. Tullis et al. clearly teaches the use of cluster –weighted modeling ( See Columns 11 and 12, lines 62 – 67 and 1 – 10 respectively ) and image – related measurements as required by the claimed subject matter and as stated in paragraph 5 above.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (703)305 -5676.

The examiner can normally be reached on 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-4467 for regular communications and (703)872-9318 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.



Yaritza Guadalupe  
Patent Examiner  
Art Unit 2859  
September 16, 2003

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